No. 86-1059

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

MILDRED BAILEY BELL, PETITIONER

v.

JOHN THOMAS BELL, JR., RESPONDENT

RESPONSE TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

FEDERAL RULES OF CIVIL PROCEDURE:

LOCAL RULES:

ADVISORY COMMITTEE NOTES:

ARTICLES:

JURISDICTION AND PARTIES

The Petitioner has correctly set out the jurisdiction of this Court and the parties to this proceeding.

STATUTES AND RULES

The Petitioner has correctly set out the applicable statutes and rules.

STATEMENT OF THE CASE

The Statement of the Case provided by the Petitioner is procedurally correct. Post-trial, the Petitioner filed a Motion for Sanctions, which the district judge denied. On pages 11 and 12 of her Petition for Writ of Certiorari the Petitioner sets out the grounds for her motion:

1. Respondent's discovery responses violated Rule 37(c);

2. Respondent's attorney certified discovery responses in violation of Rule 26(g);

3. Papers containing frivolous defenses, contentions, and arguments, as well as misrepresentations of law and fact, had been certified in violation of Rule 11;

4. Respondent had violated Local Rule C-10 of the Northern District of Mississippi by refusing to admit for pre-trial purposes relevant matters which were not in good faith controverted;

5. Respondent's attorney violated 28 U.S.C. 1927 by unreasonably and vexatiously multiplying and proliferating the proceedings.

Respondent believes that this Court should have at least an inkling of the nature of the specific offenses charged while considering whether or not to grant certiorari in this matter. Therefore, the Respondent will set out herein, briefly, the offenses charged and examples of each, as will be reflected by the record in this case. This listing, of course, does not purport to be exhaustive.

A. DISCOVERY RESPONSES VIOLATED RULE 37(c) AND RULE 26(g). The respondent's complaints here fell into two areas: (1) responses to requests for admissions; and (2) answers to interrogatories.

Several of the requests for admissions and their responses were of the following nature:

> REQUEST: You sent nothing to the education fund during the months of July 1981 through March 1982.

RESPONSE: Defendant objects to responding to this request for admission for the reason that an identical request for admission was responded to in litigation styled Bell v. Bell, Civil Action Number 63534 D-2 in the Superior Court of Bibb County, State of Georgia.

Other requests for admission concerned matters outside the knowledge of the respondent, such as:

REQUEST: Ansley was enrolled as a student in Mercer University's part-time graduate program in business administration from June 1981 until the spring of 1982.

RESPONSE: The defendant can neither admit or deny this request for admission because the only knowledge the defendant has of this statement is the information he received from the plaintiff.

Several of the Respondent's interrogatory answers were used as bases for Petitioner's Motion for Sanctions, among them the following:

INTERROGATORY NO. 1: Please state the amount of your gross salary in your employment con-

tract as a Professor at Mississippi State University, for each contract year since 1980, beginning with the 1981-1982 contract year.

ANSWER: The defendant objects to answering this interrogatory, the said information having been furnished to the plaintiff by way of answer to interrogatory and by way of production of documents in a cause of action styled Bell v. Bell, Civil Action Number 63534 D-2 in the Superior Court of Bibb County, State of Georgia.

INTERROGATORY NO. 5: With respect to calendar years 1981 through 1985 to date, state for each year whether or not you had income in addition to the salary paid to you by your primary employer.

ANSWER: The defendant objects to answering this interrogatory because the information sought is not reasonably calculated to lead to the discovery of admissible evidence.

As to the discovery aspects of this case, the record will reflect to this Court that petitioner made no pre-trial motion to compel discovery, nor did the

district judge make any finding that the failure to admit certain matters was without good cause.

B. RULE 11 VIOLATIONS. Under this heading the Petitioner advised the district judge and the Fifth Circuit Court of Appeals that the Respondent and his attorney have repeatedly filed papers containing "frivolous defenses, misrepresentations of fact, and misrepresentations of law." Among the instances complained of, the Court upon receipt of the record, will find the following allegations:

1. In responding to Petitioner's Motion for Judgment on the Pleadings Respondent told the district court that the motion relied upon affidavits and copies of pleadings in other litigation, all of which were attached to the motion, when in reality only an affidavit was attached.

2. In answer to the complaint Respondent raised as a defense that the complaint "failed to state a claim or cause of action upon

which relief may be granted" when in fact the district court found that it did state a claim.

3. After admitting the jurisdictional allegations of the complaint the Respondent asserted that the lower court should abstain from exercising its diversity jurisdiction in this case.

4. In his answer Respondent denied that he was in arrears under the Georgia judgment when at trial the district court found that he was in arrears (though not in the amount claimed by the Petitioner).

5. In his response to Petitioner's Motion for Judgment on the pleadings, Petitioner attached copies of certain Georgia cases but miscited them for the propositions for which they stand.

6. In his response to Petitioner's Motion for Sanctions in the district court the Respondent stated that Petitioner had previously filed four motions for sanctions when she had actually filed Rule 11 objections.

Additionally, during the course of the litigation below the Respondent, through counsel, requested enlargements of time for various reasons, to all of which Petitioner objected. The record will

reflect that enlargements of time were requested (1) for Respondent to obtain new counsel when the law partner of the undersigned (Petitioner's first attorney) retired from practice; (2) to secure additional time to file a response to the Motion for Judgment on the Pleadings; (3) to secure additional time to respond to Petitioner's Motion for Summary Judgment. These requests for enlargement of time were granted by the magistrate. Further, Respondent requested a continuance of the bench trial in this case because the Respondent, a veterinary professor, was to chair a seminar on that date. This motion for continuance was denied by the district judge and the trial proceeded as set. As Petitioner states in her Petition for Writ of Certiorari, this litigation took only ten months from filing of the complaint through entry of judgment after trial.

C. VIOLATION OF LOCAL RULE C-10. In this area the Petitioner complained that the Respondent refused to admit for the purposes of the pre-trial order relevant matters which were not in good faith controverted. That portion of the pre-trial order denominated as "Contested Issues of Fact" is reproduced as an Appendix hereto. The entire pre-trial order will be included in the record should the Court elect to review this case. The Respondent feels that it would be more economical of time and space for the Court simply to review the appended material.

D. VIOLATION OF 28 U.S.C. 1927. Respondent alleged before the district court and the Fifth Circuit that the undersigned attorney violated the cited statute by unreasonably and vexatiously multiplying and proliferating the proceedings in this case. The gravamen of this

offense in the Petitioner's eyes is that Respondent's attorney resisted the original complaint by filing an answer which Petitioner viewed as full of "frivolous" defenses, by resisting the Petitioner's Motion for Judgment on the Pleadings, and by contesting the Petitioner's Motion for Summary Judgment. The record will reflect that the Motion for Judgment on the Pleadings and the Motion for Summary Judgment were denied by the district court. Likewise, the Court will note that, after a bench trial on the merits, the district court denied a portion of the relief requested by the Petitioner.

Also attached as part of the Appendix hereto is a copy of the docket sheet which was certified as part of the record from the district court, showing all the filings in this case.

REASONS TO DENY THE WRIT

The Respondent certainly cannot dispute the Petitioner's assertion that there is a conflict between the circuits as to amended Rule 11, F.R.C.P., and associated federal statutes and rules. Quite obviously the law is in a state of flux regarding Rule 11. However, for several reasons the Respondent believes that the instant case is not a proper one in which to set out Rule 11 law and harmonize the holdings of the various circuits. Those reasons are:

A. The factual context of the instant case is not easily applicable to a broad range of Rule 11 situations.

B. The district judge's participation in the proceedings provided him with knowledge of the facts and he found that the conduct of neither party warranted sanctions.

C. The Fifth Circuit may have misconstrued the holding of the district court regarding sanctions.

D. In the absence of specific findings by the district court and the Court of Appeals, this Court must determine sua sponte whether violations of the rule occurred and, if so, whether the trier of fact abused his discretion in refusing to impose sanctions.

E. There was no show- cause hearing before the district court.

F. The alleged Rule 11 violations do not represent the unreasonable kind of conduct that Rule 11 seeks to deter.

Each of these reasons will be discussed briefly below.

A. THE FACTUAL CONTEXT. This case is domestic in nature, having been commenced in the district court by a complaint to domesticate a Georgia judgment, to enforce same, and to find Respondent in contempt for failure to abide by the terms of the Georgia judgment. Petitioner had filed an enforcement and contempt proceeding in the Georgia courts prior to commencing the federal action, and those

Georgia proceedings had been terminated prior to the institution of the federal court action. Discovery in the prior Georgia proceeding caused some of the discovery difficulty in which the Petitioner complains in the instant appeal. She did not, however, file any pre-trial motions to compel discovery, which she had the opportunity and obligation to do if she was unhappy with discovery responses.

The Respondent respectfully submits that a more factually sanguine case can be found by this Court that would be more generally applicable in the eyes of the bench and bar to Rule 11 situations. Admittedly, Rule 11 violations can occur in a domestic case just as easily as in any other, but Respondent believes that enterprising counsel will be able to factually distinguish this case from their

own more "normal" kinds of federal litigation, especially in the discovery aspects of this litigation.

B. THE FINDING OF THE DISTRICT COURT. The district court's order on the issue of sanctions is found in the Appendix to the Petition for Writ of Certiorari. The district court found that, while neither party was what it termed a "model litigant", the conduct of neither party had risen to the level required before sanctions are imposed.

The district judge was privy to the entire course of this litigation. He was able to consider all the various pleadings and memoranda which were filed and he heard the evidence at the bench trial of this case. He was obviously, therefore, conversant with the course of the litigation at the time he refused to impose sanctions. However, he did not in his

opinion articulate each offense complained of by the Petitioner, nor did he make any determination that any particular act or omission complained of was a violation of the rules. In short, the district judge did not refuse to impose sanctions in the face of any finding that some activity was a violation of Rule 11 or any other rule or statute.

What the district judge did say was that none of the conduct of the parties rose to the level required for violations to be found and sanctions imposed. Therefore, he denied the Petitioner's request for sanctions.

C. THE OPINION OF THE COURT OF APPEALS. The opinion of the Fifth Circuit on the issue of sanctions is found on pages 1 through 13 of the Appendix to the Petition for Writ of Certiorari. The

Respondent respectfully suggests that the Court of Appeals misconstrued what the district court found when it stated:

> The district court in the present case found that "the parties' conduct in the case sub judice did not amount to the type of unreasonable conduct that should be punished pursuant to the Federal Rules." We understand the district court to have concluded that, although there may have been violations of the rules, the appropriate sanction under the circumstances of this case was no sanction. (A.11)

The district court did not find that there were any violations of the rules. If violations had been found, the district judge would have imposed sanctions.

In her brief to the Court of Appeals on this issue the Petitioner amplified her complaints made first to the district court in her Rule 11 Motion for Sanctions. What is important here is that the Court of Appeals stated:

> We have examined the plaintiff's contentions and the record in this case and "are not left with

> a "'definite and firm conviction that the court below committed a clear error of judgment in the conclusion it reached upon a weighing of relevant facts.""' (Citations ommitted) (A.12)

The Court of Appeals had an opportunity to consider at length the facts and circumstances of this case. That court determined that the district judge had not committed a clear error of judgment in failing to impose sanctions. They left it alone.

D. FINDINGS MUST BE MADE BY THE SUPREME COURT. Neither the district court nor the Court of Appeals made any finding that any act or omission complained of by the Petitioner amounted to a violation of the rules. Therefore, the threshold activity for this Court must be to determine whether or not the fact-finder abused his discretion. If this Court determines sua sponte that obvious rule violations

occurred which the district judge ignored, then this Court must conduct an examination of the conduct complained of for the purpose of determining if sanctions should or should not have been imposed.

The Respondent respectfully submits that the foregoing procedure will be cumbersome at best for this Court. The Respondent suggests that the Court would be better served if it chose a more procedurally straightforward case.

E. THE ABSENCE OF A SHOW-CAUSE HEARING. The Advisory Committee's Notes are rather uninformative as to the procedure to be used in Rule 11 situations:

> The procedure obviously must comport with due process requirements. The particular format to be followed should depend on the circumstances of the situation and the severity of the sanction under consideration. In many situations the judge's participation in the proceedings provides him with

> full knowledge of the relevant facts and little further inquiry will be necessary.

In Rule 11 situations some courts have issued show cause orders followed by written submissions. Van Berkel v. Fox Farm & Road Mach., 581 F. Supp. 1248 (D. Minn. 1984). Some courts have required a full-blown hearing on Rule 11 matters. Miller v. Affiliated Finan. Corp., 600 F. Supp. 987 (N.D. Ga. 1984). Some courts have heard argument of counsel on the issue. Weisman v. Rivlin, 598 F. Supp. 724 (D.D.C. 1984). On the other end of the spectrum, some courts have denied the necessity for a hearing. Rodgers v. Lincoln Towing Serv., Inc., 596 F. Supp. 13 (N.D. Ill. 1984).

In the instant case there was no show-cause hearing. The Respondent was certainly in no position to complain about that since the district judge considered the Petitioner's motion and declined to

impose sanctions. The Respondent respectfully suggests that the absence of a show-cause hearing on the sanctions issue taints the instant case as a vehicle for this court to enunciate substantive Rule 11 law.

F. THE NATURE OF THE ALLEGED RULE VIOLATIONS. Earlier herein the Respondent set out examples of the kinds of conduct about which Petitioner has complained to the district court and to the Court of Appeals. The Respondent respectfully suggests that the conduct at issue does not amount to the unreasonable kinds of conduct that Rule 11 seeks to deter.

The Court's attention is drawn to the following instances where the conduct rose to the level requiring Rule 11 sanctions:

1. An attempt to relitigate discrimination claims previously dismissed for failure to state a claim. Cannon v. Loyola University of Chicago, 784 F.2d 777 (7th Cir. 1986).

2. A motion to set aside a stipulation of the parties to dismiss suit was interposed solely for the purpose of delay. Chevron U.S.A., Inc., v. Hand, 763 F.2d 1184 (10th Cir. 1985).

3. Filing a removal petition in bad faith. Davis v. Veslan Enterprises, 765 F.2d 494 (5th Cir. 1985).

4. Baseless claim of federal jurisdiction by pro se litigants. Hilgeford v. People's Bank, 776 F.2d 177 (9th Cir. 1985).

5. After one lawsuit was dismissed with prejudice, two others were filed that were virtual carbon copies of the first. Cook v. Peter Kiewit Sons Co., 775 F.2d 1030 (9th Cir. 1985).

6. Counsel filed a complaint on the basis of diversity when he knew there was not complete diversity. Weisner v. Rivlin, supra.

7. When a witness refused to allow the videotaping of a deposition, counsel moved to cite him for contempt rather than move for order allowing the videotaping. Westmoreland v. CBS, Inc., 770 F.2d 1168 (D.C. Cir. 1985).

The Respondent submits that in this case this Court will not be dealing with conduct similar to the conduct set out in the foregoing cases.

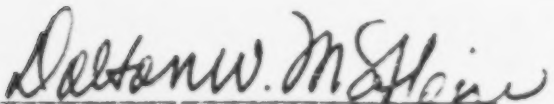
CONCLUSION

Professor George C. Cochran, writing in the Fifth Circuit Reporter, stated the Respondent's position very succinctly:

> The key to the Rule's proper functioning, however, will be a judiciary sensitive to the proposition that it is intended to curb what has been perceived as serious abuses of the Article III system. Hopefully, armed with this understanding, it will not become an in terrorem measure chilling - once and for all - the creative advocacy so valued by our profession. (Vol. 3, No. 5, at page 223)

For all the reasons herein stated, the Respondent respectfully requests this Court to deny the writ of certiorari.

Respectfully submitted,



DOLTON W. McALPIN,
ATTORNEY FOR RESPONDENT

APPENDIX

9. The contested issues of fact are as follows:

In Domestication Suit: NONE

In Contempt Proceedings:

PLAINTIFF'S CONTENTIONS:

Defendant having refused to stipulate the following facts which Plaintiff contends are conclusively established by Defendant's responses, or failure to respond, to Plaintiff's Requests for Admissions of Fact, they are listed as disputed issues of fact for purposes of this pre-trial order, pending a ruling by the court, at the evidentiary hearing, on the binding and conclusive effect of Defendant's Responses to Plaintiff's Requests for Admission Numbered 5 and 12 and Defendant's failure to either respond or interpose a proper objection to Requests 3, 6, 11, 13, 14, 15, 16, 19, and 23:

(1) In a letter dated April 30, 1982, Defendant stated to Plaintiff: "I had asked you about allowing me to look after the educational expenses of Ansley and the $500/month I would continue to pay go toward making up that which I am deficient (about 8 months). Since you did not answer my request, I gather that is not to your liking."
[Admitted by Defendant's response to Request #5]

(2) Ansley was transferred by her employer, Burroughs Corporation, from Macon to Augusta in the spring of 1982.
[Admitted by response to Request #12]

(3) Defendant made no payments to the education fund during the months of July 1981 through March 1982 [stipulated by the parties] but resumed payments to the education fund on or about April 1, 1982.
[Request #3, to which Defendant refused to respond]

(4) From April 1982 through April 1983 Defendant paid $7062.82 into the education fund.
[Request #6, to which Defendant refused to respond]

(5) Ansley was enrolled as a student in Mercer University's part-time graduate program in business administration from June 1981 until the spring of 1982.
[Request #11, with respect to which Defendant claimed lack of knowledge]

(6) Ansley enrolled as a night student at Augusta College in September 1982 but withdrew when her employer transferred her to Atlanta in October 1982.
[Request #13, with respect to which Defendant claimed lack of knowledge]

(7) Ansley entered Mercer University's Walter F. George School of Law in August 1984 and is presently enrolled as a second-year student.

[Request #14, with respect to which Defendant claimed lack of knowledge]

(8) Defendant has paid nothing into the education fund for any month since March 1982.

[Request #15, to which Defendant refused to respond]

(9) The parties' daughter Elizabeth completed her undergraduate education in 1977, worked for one year, and entered Mercer University's law school in September 1979.

[Request #15, with respect to which Defendant claimed lack of knowledge]

(10) Tom's one-year internship in a teaching hospital was a prerequisite to his obtaining a license to practice medicine.

[Request #19, with respect to which Defendant claimed lack of knowledge]

(11) Tom did not need a license to practice medicine in order for him to pursue his studies and perform his duties as a resident in ophthalmology.

[Request #23, with respect to which Defendant claimed lack of knowledge]

DEFENDANT'S CONTENTIONS WITH RESPECT TO CONTESTED ISSUES OF FACT:

a. Whether or not Ansley, the daughter of the parties, started night classes in Augusta, Georgia, while working for Burroughs Corporation.

b. Whether or not in the spring of 1979 the Defendant told the Plaintiff that he thought the separation agreement had been a mistake and that he would cease honoring it whenever he chose.

Mixed Issues of Law and Fact:

a. Whether or not the training perceived by two of the children of the parties, post-college, fall within the purview of the separation agreement and triggered payments of $500 per month by Defendant into the educational fund.

b. Whether or not the internship and residency served by the son of the parties, after he received his medical degree, fall within the purview of the separation agreement and triggered payments of $500 per month into the education fund.

c. Whether or not the post-college and post-M.D. training received by Ansley and Tom were part of their 'formal education' so as to trigger Item Six of the separation agreement.

Plaintiff objects to Defendant's statement of "mixed issues" in that the parties' obligations to make payments to the education fund and Defendant's obligation to provide medical and hospitalization insurance for the children were triggered by entry of the Georgia judgment in 1974. Defendant appears to be contending in this lawsuit that the event which the parties agreed upon as the event which would terminate those obligations occurred at some point in the past, and the foregoing statement of issues does not reflect that.

10. The contested issues of law are as follows:

In the Domestication Suit:

PLAINTIFF'S CONTENTION:

(1) Whether full faith and credit must be given to a final foreign judgment for payment of alimony and child support.

DEFENDANT'S CONTENTION:

(1) Whether or not the divorce decree rendered by the Georgia Court is entitled to full faith and credit in Mississippi.

In the Contempt Proceedings:

PLAINTIFF'S CONTENTIONS:

(1) Whether graduate studies in business administration at an accredited institution of higher learnings are "formal education"

within the meaning of that term as used in Item Six of the parties' incorporated agreement.

(2) Whether an accredited law school's three year course of study leading to a J.D. Degree is "formal education" within the meaning of that term as used in Item Six of the parties' incorporated agreement.

(3) Whether the training which medical school graduates undergo as interns or residents in accredited teaching hospitals and medical schools is "graduate training" within the meaning of that term as used in Item Four of the Parties' incorporated agreement.

(4) Whether the three-year course of study leading to a J.D. Degree at a university's law school is "graduate training" within the meaning of that term as used in Item Four of the parties' incorporated agreement.

DEFENDANT'S CONTENTION:

(1) Whether or not the case is ripe for entry of a contempt order by this court.

DIST.	OFF	DOCKET YR.	DOCKET NUMBER	FILING DATE MO	DAY	YEAR	J	N/S	O			23	$ DEMAND	MAG. NO.	COUNTY	DEM.	YR.	NUMBER
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PLAINTIFFS

BELL, MILDRED BAILEY

DEFENDANTS

BELL, JOHN THOMAS, JR.

CA 86-4196
86 4321

CAUSE

28 USC 1332 (CITE THE U.S. CIVIL STATUTE UNDER WHICH THE CASE IS FILED AND WRITE A BRIEF STATEMENT OF CAUSE) jw

Domestication of foreign judgment

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FILING FEES PAID			STATISTICAL CARDS	
DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
4/24/85	011906-$60		JS-5	
4/21/86	013324-$70		JS-6	

UNITED STATES DISTRICT COURT DOCKET

DC-111 (Rev. 9/81)

DATE	NR.	BELL v BELL — PROCEEDINGS — EC85-193-LS-D	
		IJ: 3/3-/85 DISC: 9/30/85	PTC: 11/13/85 TRIAL:
4/24/85	1	COMPLAINT	PROCESS issued-hnd pltf
5/13/85		RETURN	Ack of Rec of S/C by deft on 5/1/85.
/20/85	2	ANSWER (D)	to Complaint.
		ORDER/DISC.	Stipulation due 6/3/85.
6/6/85	3	MOTION/NOTICE (P)	for JUDGMENT & for ORDER to SHOW CAUSE.
	4	AFFIDAVIT	of MILDRED B. BELL in support of Mo to Show Cause.
6/21/85		STIPULATION	Disc - 3 months.
6/24/85		ORDER (JAD-6/21/85)	DEADLINES. Disc - 9/30/85; Join or Amend 8/16/85; PTM 10/25/85. PTC 11/15/85, 10 Aberdeen.
7/5/85	5	MOTION (Atty Richard Wise)	to WITHDRAW as deft's atty.
7/8/85	6	RESPONSE (P)	to atty's MO to Withdraw.
7/22/85	7	ORDER (JAD-7/18/85)	GRANTING Atty Richard Wise leave to withdraw as deft's counsel & GRANTING deft 30 days to file appearance of new c
8/7/85	8	NOTICE OF APPEARANCE	of Dolton W. McAlpin as atty for deft.
8/14/85	9	MEMORANDUM OPINION/ORDER (LTS-8/14/85)	DENYING Pltf's MO for JDGMT on Pldgs and MO for show cause order.
/11/85	10	NOTICES (P)	to TAKE DEPOS of Dr. John T. Bell on 9/25/85; of Elizabeth Joyce on 9/28/85; of Ansley N. Bell on 9/30/85.
9/26/85	11	WITHDRAWAL OF NOTICE (P)	to TAKE DEPOS of Elizabeth W. Joyce.
10/11/85	12	MOTION/NOTICE (P)	for SJ and SHOW CAUSE ORDER (w/AFFIDAVIT)
0/15/85	13	AFFIDAVIT	of MILDRED B BELL in support of MO for SJ/SHOW CAUSE ORDER (corr of clerical error)
0/16/85	14	MOTION (D)	for ADD'L TIME to respond to Pltf's MO for SJ
	15	ORDER (LTS)	GRANTING Deft to 11/13/85 to respond to Pltf's MO for SJ
0/22/85	16	RESPONSE (P)	to deft's Mo for Extension of Time.
	17	MOTION (P)	for RECONSIDERATION OF EX PARTE ORDER Grant deft extension of time to respond to Mo for and order to vacate.

CIVIL DOCKET CONTINUATION SHEET

NO. EC 85-193-D

PLAINTIFF	DEFENDANT	DOCKET NO.
BELL	BELL	PAGE ___ OF ___ PA

DATE	NR.	PROCEEDINGS
		Disc. 9-1-- PTC. 11/14/85 TRIAL: 1/23/86
10/22/85	18	ORDER (LTS-10/22/85) DENYING pltf's Mo to Reconsider & Vacate Order of 10/16/85.
10/23/85		NOTICE PTC reset 11/14/85 3 p.m.Aberdeen.
11/8/85	19	RESPONSE (D) to pltf's Mo for SJ.
11/14/85		ORDER TRANSFERRING CAUSE TO JUDGE GLEN H. DAVI
	20	REBUTTAL (P) in supportof Mo for SJ.
11/15/85		MINUTES & TAPE PTC 11/14/85. PTO due 12/14. Estimatedf length o One day.
11/21/85		NOTICE NJT 1/23/86, 9 a.m., ABERDEEN
12/10/85	21	MOTION (D) for CONTINUANCE of trial.
12/13/85	22	ORDER (GHD) DENYING pltf's Mo for SJ.
12/23/85	23	RESPONSE (P) to deft's Mo for continuance.
1/2/86	24	ORDER (GD 12/30/85) OVERRULING mo for cont.
1/23/86	25	CIVIL MINUTES Trial 1/23/86 UNDER ADVISEMENT. Plf & Deft to submit proposed findings of fact and conclusion of law within 14 days.
	26	WITNESS/EXHIBIT LISTS
2/24/86	27	MEMORANDUM OPINION (GHD-2/20/86)
	28	JUDGMENT (GHD-2/20/86) in favor of pltf at cost of deft. COB 43, pgs 112-113. Notice to counsel.

JS-6

3/10/86		TRANSCRIPT of evidentiary hrg 1/23/86 before Judge Davidson
3/12/86		BILL of COSTS (P)
3/17/86	29	MOTION/NOTICE (P) for clarification of judgment.
		OBJECTION (D) to Pltf's BILL OF COSTS. cc NLG
		NOTICE of OBJ

DC-111A REV. (1/7

CIVIL DOCKET CONTINUATION SHEET — No. EC 85-193-D-D

PLAINTIFF	DEFENDANT	DOCKET NO. / PAGE ___ OF ___ PAGES
MILDRED BAILEY BELL	JOHN THOMAS BELL, JR.	

DATE	NR.	PROCEEDINGS
3/20/86	30	POST-JUDGMENT MOTION (P) & NOTICE — for SANCTIONS
		REPLY (P) — to deft's objections to pltf's Bill of Costs. Copy to NLG.
3/21/86	31	NOTICE OF APPEAL (P) — from Judgment 2/24/86. ccUSCA and couns
3/25/86		ORDER (GHD) — GRANTING Deft to 4/5/86 to respond to Pltf's MO for SANCTIONS
3/27/86	32	ORDER (GHD) — RETAINING RECORD in DC pending dispositi of Postjudgment Motions cc USCA
3/31/86	33	REPLY (P) — to deft's RESPONSE TO MO FOR CLARIFICATI OF JUDGMENT
4/8/86	34	REPLY (P) — to Deft's RESPONSE TO MO for SANCTIONS
4/15/86	35	ORDER (GHD-4/14/86) — DENYING pltf's Mo for SANCTIONS
	36	ORDER (GHD-4/14/86) — CLARIFYING JUDGMENT. COB 43, pg 142. Noti coun
		ORIGINAL RECORD — ON APPEAL mailed to 5th Circuit
4/23/86	37	MOTION (P) — to SUPPLEMENT RECORD and to CORRECT DOCK
4/30/86	38	ORDER (NLG-4/29/86) — TAXING COSTS in amt of $80.00 to deft. cert. copy to Mrs. Bell & counsel of record.
5/5/86	39	MOTION (P) & NOTICE — for REVIEW OF ORDER ASSESSING COSTS & FOR ENTRY OF NEW ORDER
5/6/86	40	NOTICE OF APPEAL (P) — from ORDER of 4/14/86 DENYING pltf's Po Judgment Motion for Sanctions. CC to 5th Circuit & counsel
5/7/86		PLEADINGS REC FROM JUDGE DAVIDSON
		RESPONSE (D) — to Motion for Judgment on Pleading & Motion for Order to Show Cause dated 6/
		PRE-TRIAL ORDER — signed by Judge Davidson 1/23/86
		RESPONSE (D) — to pltf's Mo for Clarification of Judgm
5/9/86		ORDER (GHD-5/8/86) — ORDER ASSESSING COSTS in amt of $80 adopted by Court.
		ORDER (GHD-5/8/86) — That SUPPLEMENTARY RECORD be sent to 5th Circuit.including all pleadings, br & papers filed with Court
		SUPPLMENTARY RECORD — mailed to 5th Circuit

DC-111A REV. (1/78)

DC 111A
(Rev. 1/79)

CIVIL DOCKET CONTINUATION SHEET

No. EC 85-193-D-D

PLAINTIFF	DEFENDANT	DOCKET NO. ___
BELL	BELL	PAGE ___ OF ___

DATE	NR.	PROCEEDINGS
5/15/86		MOTION (P) FOR SUPPLEMENTATION OF RECORD ON AP cc 5th Circuit
5/23/86		ORDER (GHD-5/23/86) Granting pltf's Mo for 2nd Suppleme record on appeal except for unavail letter from Dolton McAlpin (served on 6/17/86)
		2nd SUPPLEMENT TO RECORD ON APPEAL mailed to 5th Circuit
6/5/86		3rd MOTION (P) to SUPPLEMENT RECORD ON APPEAL. cc 5th Circuit
6/9/86		ORDER (GHD-6/6/86) GRANTING pltf's Mo to supplement re on appeal.
		3rd SUPPLEMENT TO RECORD ON APPEAL in CA 86-4196 CA 86-4321 mailed to 5th Circuit

CERTIFICATE OF SERVICE

I, the undersigned counsel of record for the Respondent, hereby certify, pursuant to Rule 28 of the Rules of the Supreme Court of the United States, that I have this day mailed, postage prepaid, three (3) copies of the foregoing RESPONSE TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT to the following party who is proceeding pro se in this Court:

Ms. Mildred B. Bell
516 High Point North Road
Macon, GA 31210

The undersigned is a member of the Bar of this Court.

SO CERTIFIED this the 12 day of March, 1987.

Dolton W. McAlpin

DOLTON W. McALPIN